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Corruption Watch joins EFF and DA as friend of the court in Nkandla matter in bid to clarify public protector's powers

Corruption Watch has been granted leave to intervene as *amicus curiae* or a friend of the court in the EFF and DA's application to enforce the public protector's findings in the Nkandla report. The organisation's primary interest in this matter is in respect of compliance by state officials and the president with the public protector's remedial action. Corruption Watch will address the Constitutional Court on the status and scope of the public protector's remedial powers and how organs of state are required to respond to the public protector's remedial action.

In this case, the EFF and the DA have approached the Constitutional Court directly in order to seek the enforcement of the public protector's report on the president's private residence in Nkandla, titled *Secure in Comfort* and published in March 2014.

Corruption Watch's involvement in this matter is focused on providing submissions to the court on the importance of the Office of the Public Protector in the fight against corruption and of ensuring that remedial action is implemented subject only to the judicial review of such action. Corruption Watch will make oral submissions before the court during the hearing scheduled for 9 February 2016.

"It is an incontrovertible fact that the public protector has been our most important institutional check on corruption. If her findings and remedies are not binding the level of brazen impunity and lack of accountability that are the root causes of corruption will flourish. We firmly believe that in order for the public protector to carry out its mandate effectively, the correct interpretation of the Constitution is that its findings and remedies are binding. This is the finding of the Supreme Court of Appeal and we are confident that it will be upheld by the Constitutional Court," said David Lewis, executive director of Corruption Watch.

The organisation has made similar submissions as *amicus curiae* before the Supreme Court of Appeal (SCA) in the matter involving the enforcement of the public protector's report in respect of the SABC chief operating officer, Hlaudi Motsoeneng. In this matter, the SCA found that

remedial action of the public protector in terms of s 182(1) (c) of the Constitution has legal effect, and, unless set aside on judicial review, organs of state and public officials may not ignore it.

The SCA further held that the public protector is unable to realise the constitutional purpose of her office if organs of state or public officials second-guess her findings, or ignore her remedial directions by establishing parallel processes that do not serve to implement her directions.

Our [application](#) for leave to intervene as *amicus curiae* and our [written submissions](#) to the court are available online.

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